

From: Andrukat, Dennis
Sent: Thursday, May 9, 2019 10:05 AM
To: sarah uraniumwatch.org
Cc: Malave-Velez, Yanely; Ward, William
Subject: RE: APR 1400 Direct Final Rule | NRC response to Uranium Watch on 4/30 press release

Ms. Fields,

Thank you for your inquiries and interest in this project. The NRC's responses to your inquiries are indicated below:

On October 5, 2018, the NRC issues the issuance of the APR 1400 standard design approval and allows the design to be referenced in a construction and operating license application. On April 30 the NRC issues a corrected new release, entitled "NRC Issues Direct Final Rule to Certify Korean APR1400 Reactor."

NRC Response: The April 30, 2019 correction refers to the original April 30, 2019 press release; this is not a correction to the October 5, 2018 press release regarding the standard design approval. The regulations under 10 CFR Part 52 allow an applicant to apply for and receive both a Standard Design Approval (SDA) and a Design Certification (DC). These are independent of each other; however, both may rely on the same DC application.

[When will that notice be published in the *Federal Register*?](#)

NRC Response: The staff estimates that this rule will be published in the *Federal Register* in early to mid-June 2019.

[When will a copy of the FRN be placed on the relevant NRC and Rulemaking dockets?](#)

NRC Response: Once the rule is published in the *Federal Register*, the federal register notice (FRN) (both proposed rule and final rule) will be posted that same day to the www.regulations.gov docket (search for Docket ID: NRC-2015-0224).

[Will the NRC issue another news release with the actual FRN date and number?](#)

NRC Response: No. However, you may visit the www.regulations.gov docket (search for Docket ID: NRC-2015-0224) to view the official FRNs, once published in the *Federal Register*.

[The APR 1400 rulemaking webpage states that the publication in the *Federal Register* is April 15, 2019.](#)

NRC Response: The NRC's APR1400 public rulemaking webpage will be updated soon with the new estimated publication date. (Ref. <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleDetails.html?id=82>)

[Why is the NRC issuing a Direct Final Rule, rather than a draft Rule for public comment?](#)

NRC Response: This direct final rule process meets the requirements of the Administrative Procedures Act (APA) as the NRC will be publishing a proposed rule at the same time as when the NRC publishes the final rule. There will be a public comment period to give the public an opportunity to submit comments. The process follows that if there are public comments that warrant a change to the rule (i.e., significant and adverse), then the final rule will be withdrawn the process reverts back to the more

typical notice-and-comment format. A new final rule would then be issued that address such public comments.

The NRC uses the direct final rule process when the agency believes the rulemaking will be non-controversial. As stated in SECY-19-0020, which accompanies the APR 1400 rule, the “design builds upon the Westinghouse (originally Combustion Engineering) System 80+ design, which was certified in May 1997, is similar to several plants currently operating in the United States, and incorporates advanced design features to enhance safety and operational flexibility. In addition, the applicant has successfully constructed and operated the design internationally. During the review process of the APR1400 DC, members of the public did not express any safety concerns. For these reasons, the staff considers this rulemaking to be non-controversial and does not expect to receive significant adverse comments.”

For more information, please visit: <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rulemaking-process/direct-final-rule.html>

Does this mean that for other design certification applications, for example the NuScale Small Modular Reactor (SMR) Design (52-048), the NRC will issue a Direct Final Rule rather than a proposed Rule for public comment?

NRC Response: The NRC uses the direct final rule process on a case-by-case basis. At this time, the NRC does not plan to use the direct final rule process for the NuScale design certification rulemaking.

Kind Regards,
Dennis (*acting Rulemaking Project Manager for the APR1400 DC*)



Dennis Andrukut

Project Manager

Division of Rulemaking

Office of Nuclear Material Safety and Safeguards

301-415-3561 | T-4A22

From: sarah uraniumwatch.org [<mailto:sarah@uraniumwatch.org>]

Sent: Thursday, May 02, 2019 1:40 PM

To: Ward, William <William.Ward@nrc.gov>

Subject: [External_Sender] APR 1400 Direct Final Rule

Dear Mr. Ward,

I would like some clarification on the Nuclear Regulatory Commission's (NRC's) process for approving the Advanced Power Reactor (APR) 1400. On October 5, 2018, the NRC issues the issuance of the APR 1400 standard design approval and allows the design to be referenced in a construction and operating license application. On April 30 the NRC issues a corrected new release, entitled "NRC Issues Direct Final Rule to Certify Korean APR1400 Reactor."

When will that notice be published in the *Federal Register*? When will a copy of the FRN be placed on the relevant NRC and Rulemaking dockets? Will the NRC issue another news release with the actual FRN date and number?

The APR 1400 rulemaking webpage states that the publication in the *Federal Register* is April 15, 2019.

Why is the NRC issuing a Direct Final Rule, rather than a draft Rule for public comment?

Does this mean that for other design certification applications, for example the NuScale Small Modular Reactor (SMR) Design (52-048), the NRC will issue a Direct Final Rule rather than a proposed Rule for public comment?

Thank you for your response to this inquiry,

Sarah Fields
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435-260-8384